

CITY COUNCIL, CITY OF LODI
CITY HALL COUNCIL CHAMBERS
WEDNESDAY, OCTOBER 5, 1988
7:30 P.M.

ROLL CALL Present: Council Members - Hinchman, Olson, Reid,
 Snider and Pinkerton (Mayor)

 Absent: Council Members - None

 Also Present: City Manager Peterson, Assistant City
 Manager Glenn, Community Development
 Director Schroeder, Public Works Director
 Ronsko, City Attorney McNatt, and City Clerk
 Reimche

INVOCATION The invocation was given by Assistant City Manager Glenn.

PLEDGE OF
ALLEGIANCE The Pledge of Allegiance was led by Mayor Pinkerton.

PRESENTATIONS

PROCLAMATIONS Mayor Pinkerton presented the following proclamations:

CC-37 a) "Public Power Week" - October 9 - 15, 1988
 b) "Rideshare Week '88" - October 3 - 7, 1988
 c) Proclamation urging the citizens of Lodi to register
 to vote and to vote

CONSENT CALENDAR In accordance with report and recommendation of the City
 Manager, Council, on motion of Council Member
 Hinchman, Olson second, approved the following items
 hereinafter set forth. Agenda item E-13 entitled, "Approve
 agreement with Dave Smith for Wine Country Carriage to
 operate a horse-drawn wagon-carriage concession at Lodi
 Lake Park and authorize the City Manager and City Clerk to
 execute the agreement" was removed from the Consent
 Calendar and discussed and acted upon at a later point on
 the agenda.

CLAIMS CC-21(a) Claims were approved in the amount of \$3,458,925.53.

MINUTES The Minutes of September 7, 1988 were approved as written.

VARIOUS SPECIFI-
CATIONS APPROVED City Council approved the following specifications and
 authorized advertising for bids:

CC-12.1(b) a) Purchase of 20,000 feet of No. 2-15 KV XLPE Cable

CC-12.1(c) b) Painting and Preparation Work at 303 West Elm Street,
 contract

CC-12.1(c) c) Lodi Lake beach sand material

PLANS AND SPECIFI-
CATIONS FOR SOFTBALL
COMPLEX FENCE
REPLACEMENT, 401
NORTH STOCKTON
STREET APPROVED The City Council approved the plans and specifications for
 the Softball Complex Fence Replacement, 401 North Stockton
 Street, and authorized advertising for bids.

CC-12.1(a)

Continued October 5, 1988

The City Council was advised that this project was originally planned to include a 16-foot outfield fence to prevent windshield breakage in the parking lot. Bids were rejected by the City Council when objections were raised concerning the height of the fence.

The project was reviewed by the Parks and Recreation Commission and the City Attorney. It was determined that a 12-foot fence with warning signs would sufficiently relieve the City of liability.

The project has been redesigned and includes a 12-foot outfield fence with 20-foot foul line marker poles, a mowstrip, and miscellaneous fence repairs.

PLANS AND SPECIFICATIONS FOR SOFTBALL
COMPLEX UTILITY ROAD,
401 NORTH STOCKTON
STREET APPROVED

CC-12.1(a)

The City Council approved the plans and specifications for the Softball Complex Utility Road, 401 North Stockton Street and authorized advertising for bids, and transferred sufficient funds from the excess in the Softball Complex shade structure account for this project.

The City Council was apprised that the utility service road from Lawrence Avenue will allow vendors and suppliers access to the concession stand area without interfering with pedestrians in the bleacher area. The Parks and Recreation Department has also requested additional paving adjacent to the roadway to accommodate accessory vehicles associated with the sports tournaments held there. This additional work accounts for a portion of the project overrun. The remainder is due to the original low budget estimate. Funds remaining in the Softball Complex shade structure account will be sufficient to do this work and replace or modify the backstops which were included in that project.

AWARD BID FOR THE
PURCHASE OF FOUR
CUSHMAN VEHICLES

RES. NO. 88-137

CC-12(d)
CC-47

The City Council adopted Resolution No. 88-137 awarding the bid for the purchase of four Cushman vehicles to the low bidder, Duke Equipment Company of Rancho Cordova, in the amount of \$32,012.01 and approved allocation of additional funding of \$4,962.01 from the 12 Equipment Fund to cover this purchase.

The City Council was advised that on September 7, 1988 it approved the specifications for the purchase of said vehicles and authorized advertisement for bids. Bids were opened on September 27, 1988 with the following results:

Duke Equipment and Irrigation Rancho Cordova, CA	\$32,012.01
West Star Distributing Hayward, CA	\$33,994.20
Turf and Industrial Equipment Santa Clara, CA (Bidding Daihatsu vehicles)	\$36,456.05
Golden Bear Equipment North Highlands, CA	No Response

Continued October 5, 1988

J. M. Lift
Stockton, CA

No Response

Three of the vehicles purchased would be used by the Parks and Recreation Department to replace existing units. The fourth vehicle would be used at the Community Center for maintenance and hauling of materials and equipment between buildings or scheduled activities.

On December 16, 1987, City Council approved Cushman as the standard small vehicle for use by the Parks and Recreation Department.

The 1988/89 Equipment Fund Budget included \$27,050 for the purchase of these four vehicles. However, with the low bid entered at \$32,012.01, additional funding of \$4,962.01 would be required and is requested herein.

Delivery would be expected about four weeks after placement of order.

AWARD BID FOR THE
PURCHASE OF FIRE
APPARATUS INTERCOM
SYSTEM (SOLE MANUFACTURER
DAVID CLARK COMPANY)

RES. NO. 88-138

CC-12(d)
CC-47

The City Council adopted Resolution No. 88-138 awarding the bid for the purchase of Fire Apparatus Intercom Systems, manufactured by the David Clark Company of Worchester, Massachusetts, to the low bidder, L. N. Curtis and Sons of Oakland, California, in the amount of \$12,855.68.

The City Council was reminded that on September 7, 1988 it approved specifications for the purchase of said equipment and authorized advertisement for bids. Bids were opened on September 27, 1988 with the following results:

L. N Curtis and Sons Oakland, CA	\$12,855.68
Jan Industrial Electronics Philadelphia, PA	\$13,121.95
Santa Rosa Fire Equipment Santa Rosa, CA	\$13,462.00
Mine Safety Equipment Co. Simi Valley, CA	No bid
Solon Fire Control Folsom, CA	No bid

The purpose of this equipment is to improve radio communications and provide hearing protection to all employees during Code 3 emergency responses. With this equipment each employee on the fire engine or truck will wear a headset which will allow for intercom and radio reception and transmission. These headsets also block out the engine, siren, and air horn noise which can reach levels which will permanently damage hearing.

Funds for the purchase of this equipment have been budgeted in the 1988-89 Equipment Fund.

Delivery is expected about 6 weeks following placement of order.

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AWARD BID FOR THE
PURCHASE OF TWO
DIGGER-DERRICK
BUCKET TRUCKS

RES. NO. 88-139

CC-12(d)

CC-47

The City Council adopted Resolution No. 88-139 awarding the bid for two digger-derrick/bucket trucks to the low bidder, meeting specifications, Pac Power, Dixon, California, in the amount of \$262,033.70.

The City Council was advised that on August 17, 1988, it had approved specifications and authorized the advertisement for bids for two digger-derrick/bucket trucks. These units are for replacement of existing line truck #2 and for use by the additional line crew being added to the Department's staff during this fiscal year. The specifications call for a truck configuration with the aerial unit mounted behind the cab. It was subsequently determined to request a bid for a configuration with the aerial mounted over the rear axle and thus an addendum to the specifications was mailed to all prospective bidders. This alternate configuration does offer an advantage in unique work situations and it is felt that the Department would benefit from having one unit of this "over-the-axle" arrangement in its equipment fleet.

The apparent low bidder, West Coast Utility Equipment Co., did take seven exceptions to the specifications of which one is especially significant. The specifications call for the 'top controls' of the aerial device, i.e. the controls used to operate (manipulate) the unit from either bucket position to "be removable and capable of being mounted to the lip of either bucket." The ability of the operator to position the controls at any location on the bucket lip, i.e. between the operator and the work area and within view and easy reach, is a significant safety feature. The apparent low bidder's control unit is located on the boom supporting the buckets, thus not meeting this very important safety requirement.

Based on the exception(s) taken by the apparent low bidder, the above recommended award was made. This recommendation is further based on one unit of each configuration.

Funding for this purchase was included in the 1988-89 fiscal year budget.

BID EVALUATION - EUD-88-5

DIGGER-DERRICK/BUCKET TRUCKS

	<u>Behind Cab</u>		<u>Over Axle</u>	
	<u>Unit Price</u> <u>Incl. Tax</u>	<u>Delivery</u> <u>(Weeks)</u>	<u>Unit Price</u> <u>Incl. Tax</u>	<u>Delivery</u> <u>(Weeks)</u>
Pac Power Dixon, CA	\$130,766.90	30-34	\$131,266.80	30-34
Utility Body Company Berkeley, CA	148,779.48	16	148,779.48	16
West Coast Utility Equip. * Fontana, CA	129,806.54	28-32	129,806.54	28-32
Pacific Mobile Equip. Corp. Benicia, CA				Late Bid

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Heil Equipment Company
Dixon, CA

No Bid

Mobile Hydraulic Equip., Inc.
West Sacramento, CA

No. Bid

* Does not meet specifications

RESOLUTION OF
INTENTION TO
VACATE THE WEST
FIFTEEN FEET OF
RAVENWOOD WAY ADOPTED

RES. NO. 88-140

CC-52(c)

The City Council adopted Resolution No. 88-140 a resolution of intention to abandon the west 15 feet of Ravenwood Way; referred the matter to the Planning Commission; and set the matter for public hearing at the regular Council meeting of November 2, 1988.

The City Council was advised that this abandonment has been requested by Gibraltar Community Builders pursuant to an order issued by the Superior Court. Wilbert and Roberta Ruhl obtained a judgement establishing certain easement rights in their favor over a portion of the Noma Ranch Subdivision. Gibraltar and Ruhl have agreed upon a method of resolving this dispute whereby Gibraltar will grant the Ruhl's easement rights in exchange for certain consideration. Specifically, the Ruhls will obtain a 15-foot easement over the westerly portion of Lots 1 and 20 in the Noma Ranch Subdivision as well as the westerly 15 feet of Ravenwood Way. In order to accomplish this, the City of Lodi will need to vacate and abandon the westerly 15 feet of Ravenwood Way as well as a portion of certain improvements along Almond Drive where the Ruhl's roadway would intersect Almond Drive. Gibraltar will then construct a fence along the boundary between the Ruhl property and Noma Ranch. The fence to be constructed at the end of Ravenwood Way would have a gate with a City lock.

The owners have paid the required fees to process this abandonment. Pacific Bell, PG&E, King Videocable Company, and City utilities have been notified of this proposed abandonment and their approval will be secured prior to the final action.

In exchange for the abandonment and vacation, the adjacent owners, Wilbert and Roberta Ruhl, have agreed to execute a deed restriction, to be recorded and run with the land, obligating them or their successors in interest to restore the public rights-of-way at such time as they or their successors in interest seek any development permit or map, at their own cost. This simply means that at such time as the adjacent Ruhl property is used for anything other than its present agricultural uses, the owners of the property at that time will be required to rededicate to the City the land abandoned here, and to provide the extension of such public rights-of-way in conjunction with any development.

IMPROVEMENTS AT 631
NORTH CLUFF AVENUE
ACCEPTED

RES. NO. 88-141

CC-46

The City Council adopted Resolution No. 88-141 accepting the development improvements included in the Development Agreement for 631 North Cluff Avenue and as shown on Drawing Nos. 88D025 through 88D026.

Continued October 5, 1988

The City Council was informed that improvements at 631 North Cluff Avenue have been completed in substantial conformance with the requirements of the Development Agreement between the City of Lodi and Modern Building Company dated May 13, 1988, and as specifically set forth in the plans and specifications approved by the City Council.

No streets are to be accepted.

AGREEMENT WITH DAVE
SMITH FOR WINE
COUNTRY CARRIAGE TO
OPERATE A HORSE-DRAWN
WAGON-CARRIAGE CONCESSION
AT LODI LAKE PARK
APPROVED

CC-6
CC-22(a)
CC-90

Presented for City Council approval was an agreement prepared by the City Attorney with David Smith, dba Wine country Carriage, to establish an exclusive agreement whereby Mr. Smith would provide carriage rides in Lodi Lake Park.

The Agreement is for an initial period of one year, and is renewable thereafter on a year-to-year basis by mutual consent. In exchange for the exclusive right to haul passengers in the Park, Mr. Smith will pay to the City 10% of his gross revenues.

Following discussion with questions being directed to the City Attorney regarding the proposed agreement, on motion of Council Member Reid, Hinchman second, the City Council approved the subject agreement and authorized the City Manager and City Clerk to execute the agreement.

COMMENTS BY CITY
COUNCIL MEMBERS

The following comments were received under the "Comments by City Council Members" segment of the agenda:

REPORT BY CITY'S
REPRESENTATIVE TO
LAFCO REGARDING THE
ANNUAL LAFCO
CONFERENCE

CC-7(m)

Council Member Olson gave a brief report regarding the Annual Local Agency Formation Commission (LAFCO) Annual Conference she recently attended.

MAYOR PINKERTON
REQUESTS INFORMATION
REGARDING ENFORCEMENT
OF TRUCK TRAFFIC ON
TURNER ROAD

CC-45(a)
CC-48(a)

Following a request by Mayor Pinkerton for "effective enforcement" of truck traffic on Turner Road, the City Manager reported that he had instructed the Chief of Police to have police department personnel stop trucks on Turner Road to determine their destination. This is being done in an effort to determine the extent of through truck traffic on Turner Road.

COMMENTS BY THE
PUBLIC ON NON
AGENDA ITEMS

There were no persons in the audience wishing to speak under this segment of the agenda.

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REPORT GIVEN
REGARDING SURVEY
OF BUILDABLE LOTS
IN THE CITY OF
LODI

Community Development Director Schroeder reported on the City of Lodi Buildable Lots Survey.

CC-27(a)
CC-35
CC-91

CITY ATTORNEY GIVES
UPDATE ON MEASURE A
LAWSUIT

City Attorney McNatt gave an update on the Measure A lawsuit.

CC-4(a)

PUBLIC HEARINGS

There were no public hearings scheduled for this meeting.

PLANNING COMMISSION
REPORT

City Manager Peterson presented the following Planning Commission Report of the Planning Commission Meeting of September 26, 1988:

The Planning Commission -

CITY ATTORNEY REQUESTED
TO PREPARE AN ORDINANCE
WHICH WILL BRING THE
CITY'S "GRANNY UNIT"
ORDINANCE INTO CONFORMANCE
WITH EXISTING STATE
LAW

Recommended that the City Attorney prepare an Ordinance for adoption by the City Council which will bring the City's "Granny Unit" Ordinance (i.e. Residential Second Unit) into conformance with existing State law.

CC-35
CC-53(a)
CC-149

PROPOSED AMENDMENT
FOR OFF-STREET PARKING
REQUIREMENTS FOR
TRIPLEXES, FOURPLEXES
AND MULTIPLE-FAMILY
UNITS IN AREAS ZONED
R-LD, R-GA, R-MD, AND
R-HD SET FOR PUBLIC
HEARING

Recommended that the off-street parking requirements for triplexes, fourplexes and multiple-family units in areas zoned R-LD, Low Density Multiple Family Residential, R-GA, Garden Apartment Residential, R-MD, Medium Density Multiple Family Residential, and R-HD, High Density Multiple Family Residential, be increased from 1 1/2 spaces per unit to 2 spaces per unit.

CC-35
CC-53(a)
CC-149

On motion of Council Member Hinchman, Olson second, the City Council set this matter for public hearing on November 2, 1988.

Further, the Planning Commission -

Determined that 1988-89 through 1992-93 Water Capital Improvement Program was consistent with the Lodi General Plan and recommended its approval to the City Council.

Determined that the 1988-89 through 1992-93 Capital Improvement Program was consistent with the Lodi General Plan and recommended its approval to the City Council.

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ITEMS OF INTEREST TO THE CITY COUNCIL

1. Denied the request of Donald R. Pearson on behalf of H and M Builders for the approval of the Tentative Subdivision Map of Iris Place, Phase II, a 1.0 acre, 6-lot single-family residential project proposed for 1420 Iris Drive (APN 033-040-15) in an area zoned R-1, Single Family Residential.
2. Conditionally extended for a period of six months the Temporary Use Permit of Concrete, Inc. to install a portable batch plant and office trailer at 1360 East Turner Road in an area zoned M-2, Heavy Industrial.
3. Conditionally approved the request of Weil Motors for a Use Permit to install a temporary office trailer at 2 West Lockeford Street in an area zoned C-2, General Commercial.
4. Determined that a zoning hardship did not exist and denied the request of Harry Ilgenfritz for a zoning variance to reduce the setback for a monument sign from 10 feet to 4 feet at 1330 South Ham Lane in an area zoned R-C-P, Residential-Commercial- Professional.

On motion of Council Member Hinchman, Olson second, the City Council set this matter for public hearing on November 2, 1988.

COMMUNICATIONS
(CITY CLERK)

CLAIMS CC-4(c)

On motion of Council Member Olson, Reid second, the City Council denied the following claim which had been filed against the City of Lodi:

- a) Raymond Davenport - date received August 12, 1988

ABC APPLICATIONS

City Clerk Reimche presented the following application for Alcoholic Beverage License which had been received:

CC-7(f)

- a) Angele M. Ingrao, 360 East Lodi Avenue, Lodi, CA, On Sale General Eating Place - Person to Person Transfer

PUC APPLICATIONS

CC-7(f)

City Clerk Reimche presented a notice that had been received from Pacific Gas and Electric Company (PG&E) advising of its filing of Application No. 88-09-032 in which it requests authority from the California Public Utilities Commission to increase its rates for natural gas services under the Annual Cost Allocation Proceeding.

REPORT BY COMMUNITY
DEVELOPMENT DIRECTOR
CONCERNING RECOURSE
THE OWNER OF A
SINGLE-FAMILY
RESIDENCE HAS IF
THE RESIDENCE IS
LOCATED IN THE
"MORATORIUM AREA"
AND IS SURROUNDED
BY APARTMENT
COMPLEXES

CC-35
CC-53(a)

Community Development Director Schroeder presented the following report concerning the recourse the owner of a single-family residence has if the residence is located in the "Moratorium Area" and is surrounded by apartment complexes:

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At the City Council meeting of Wednesday, September 7, 1988, Council-Person Olson asked what a single-family property owner in the East Side Study could do with his property when it was adjacent to multiple family on two or three sides.

The Ordinance, as adopted by the City Council, classified that property as single-family and no units could be added. However, under the City's "Granny Ordinance" (Residential Second Units) he might be eligible for an additional unit as are many other single-family parcels throughout the City.

It has been determined that in the East Side study area there exist 43 single-family homes that abut on two sides or more by other than single-family units or duplexes. To permit 43 additional apartment conversions would aggravate the problems of utility impactions, traffic and overcrowding the Planning Commission and City Council were concerned about when the East Side zoning was accomplished.

When the present sewer moratorium was adopted, no additional conversions to apartments were contemplated in the study area. It appears that any changes in the status of the 43 homes will have to wait until the White Slough expansion and utility improvements are completed.

REGULAR CALENDAR

ACQUISITION OF PROPERTY FOR C-BASIN

CC-27(a)
CC-27(c)

City Attorney McNatt apprised the City Council that at the Council meeting of September 28, 1988, he was directed to explore possible disposition of the matter involving redesign of and land acquisition for the C-Basin park on Beckman Road.

As the Council will recall, the original design of the park was modified somewhat to accommodate the desires of Daryl Geweke, who wished to acquire adjacent property from the Kettelman family. A second plan was drafted, which has been found by the Parks and Recreation Department to be preferable to the original design. However, the redesign involves placing the park east of the existing Basin on land which presently belongs to the Parker/Briggs family.

The Parker/Briggs family has stated they are willing to sell the necessary land to the City of Lodi for the same amount as that paid by Mr. Geweke to the Kettelmans (\$26,260 per acre), but as a condition, wish the park to be named "Rueben and Mary Pixley Park" in honor of the Parker/Briggs ancestors.

This condition has not been universally endorsed by parties involved, who point out that parks are traditionally named to honor families who donate the land, not simply sell it to the public entity. However, the Parker/Briggs family believes their land is worth over twice the amount per acre paid by Mr. Geweke to the Kettelmans for adjacent land, and thus they feel they are making a substantial donation toward the park.

After consultation and negotiation with Attorneys Lewis Hawkins, representing the Parker/Briggs interest, Gerald Sperry representing Mr. Geweke, and Robert Elliott on behalf of the Kettelmans, there appear to be three workable options available:

OPTION 1:

Abandon plans to expand the C-Basin, and construct a park. This does not appear practical based on the City's needs and Council's desires as heretofore expressed.

OPTION 2:

Execute a four-party agreement in which the City agrees to build the revised plan and name the park "Rueben and Mary Pixley Park". Under this scenario, the Parker/Briggs family will accept the same amount per acre (\$26,260 per acre), Mr. Geweke will agree to pay the additional costs of the redesigned plan, and the Kettelmans will sell the land necessary to the City and to Mr. Geweke. Tentative negotiations indicate this is acceptable to the Kettelmans and Mr. Geweke.

The only real hurdle left under this option is the willingness of the Council to name the park after the Pixley family. If that is agreeable, then this appears to be the most viable option.

OPTION 3:

Under this option, should the Council decide against naming the park after the Pixley family, and the Briggs/Parker family will not voluntarily sell the land otherwise, the Council may wish to set a date for a hearing on a resolution of necessity to acquire the land by eminent domain. If this is done, Mr. Geweke has indicated his willingness to pay the ultimate value of the land as determined in litigation, as well as costs of an associate lawfirm for the litigation.

Before this is done, however, a finding should be made by the City Council that the second design is preferable for municipal needs, and not adopted primarily to accommodate Mr. Geweke. The City may not use its eminent domain powers to acquire land simply to assist private interests. However, if the second design of the park is preferable from a municipal standpoint, the fact that Mr. Geweke is an incidental beneficiary is unimportant.

The desirability of this option should be weighed against the risks inherent in litigation. If found preferable, the Council should set the hearing on the resolution of necessity for the November 2, 1988 Council meeting.

On the other hand, if the second option (naming the park after the Pixley family) is decided upon, a resolution authorizing the City Manager and City Clerk to execute the necessary documents for acquisition of the land, and designating the site "Rueben and Mary Pixley Park" should be brought back for adoption at the October 19, 1988 Council meeting.

Following discussion with questions being directed to the City Attorney, Council, on motion of Mayor Pro Tempore Snider, Hinchman second, voted to go forward with Option 2 as heretofore set forth.

The City Attorney apprised the City Council that a resolution authorizing the City Manager and City Clerk to execute the necessary documents for acquisition of the land, and designating the site "Rueben and Mary Pixley Park", will be brought back to the City Council for adoption at the October 19, 1988 Council meeting.

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REFINANCING OF THE
TURNER ROAD/CLUFF
AVENUE ASSESSMENT
DISTRICT

RES. NO. 88-142
RES. NO. 88-143

CC-10(g)

Following the introduction of the matter by the City Manager and Attorney-at-Law Tim Hachman, the City Council on motion of Mayor Pro Tempore Snider, Olson second adopted the following resolutions pertaining to the refinancing of the Turner Road/Cluff Avenue Assessment District:

Resolution 88-142 - A Resolution Appointing Escrow Bank, Registrar, Transfer Agent and Paying Agent and Authorizing Execution of Fee Agreement for Services

Resolution No. 88-143 - A Resolution Determining Unpaid Reassessments and Providing for Issuance of Refunding Bonds

Resolution No. 88-142 appoints Bank of America as fiscal agent to perform those services required to service the debt and establish escrow, etc. They have performed these services on the original Turner Road/Cluff Avenue financing and are very capable.

Resolution No. 88-143 determines the amount of unpaid assessments, sets forth provisions for issuance of the Refunding Bonds, establishes the necessary funds for administering the proceeds of the sale of the Refunding Bonds and provides for redemption of the Refunding Bonds at maturity.

CONSOLIDATION OF
MUNICIPAL ELECTIONS
WITH THE STATEWIDE
GENERAL ELECTION

ORD. NO. 1438
INTRODUCED

CC-18

City Attorney McNatt introduced the matter advising that at the direction of the City Council, an Ordinance has been prepared which, if adopted, will consolidate the municipal election with the Statewide general election. As the Council is aware, municipal elections have previously been held on the second Tuesday of April in even numbered years, and the Statewide general elections on the first Tuesday following the first Monday in November of even numbered years. The intent of the proposed ordinance is to increase voter turnout and avoid additional costs of a separate municipal election.

Under applicable State law, if the Council adopts the ordinance, it must then be forwarded to the County Board of Supervisors for approval. Government Code §36503.5 specifies that the Board of Supervisors "... shall ... approve (the ordinance) ... unless the ballot style, voting equipment, or computer capability is such that additional elections or material cannot be handled." In speaking with San Joaquin County Registrar of Voters George Cunningham, it appears that no such problems would exist in the City's case.

It is also noted that the Cities of Tracy and Manteca have already consolidated their municipal elections with the Statewide general election. According to Mr. Cunningham this has resulted in an increase in voter turnout of approximately fifty percent.

Assuming that the Council adopts this Ordinance, and approval is given by the County Board of Supervisors, it

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would then be required that the City Clerk provide notice to all registered voters in the City of the change in election date and of the fact that Council members' terms would be extended by approximately seven months.

Following discussion, the City Council on motion of Council Member Hinchman, Olson second, introduced Ordinance No. 1438 entitled, "An Ordinance of the Lodi City Council Consolidating Municipal Elections with Statewide General Elections".

DIAL-A-RIDE FOR
VOTERS NOT APPROVED

CC-18
CC-50(a)
CC-50(b)

City Attorney McNatt made the following report regarding "Dial-A-Ride" transportation for voters:

In conjunction with the City's consolidation of municipal elections with the general election, the Council has directed that measures to increase voter turnout be explored. Among other things, it has been proposed that Dial-A-Ride vehicles be utilized to provide transportation for voters to and from the polls on election day.

In researching the legalities of this proposal, it appears that no State law would be violated. While Article 16, §6 of the California Constitution prohibits making a gift of public funds to any individual, it has been held that use of such funds for a "public purpose" is proper, and that the determination of what is a "public purpose" is generally a matter for legislative discretion (Alameda County v. Janssen (1940) 16 Cal.2d 276). Although providing free transportation to voters would obviously bestow some benefit on individuals, if the Council determined that such action was in the public interest and was thus a "public purpose", the action could be upheld. That is not to say that some Council candidate might not attempt to allege that such a plan favors incumbents who bestowed such a benefit, but this argument appears rather weak.

In addition, the proposed action does not appear to violate the provisions of Election Code §§29621 or 29622, which generally prohibit gifts or payments to voters for voting. The essence of these statutes is that some benefit, gift or consideration was given or promised to a voter to:

1. Refrain from voting
2. Remain away from the polls entirely
3. Vote for a particular person or measure.

As long as no election materials or advertisements were attached to or located in the Dial-A-Ride vehicles, urging a vote for a particular person or measure, the provisions of Election Code §§29621 and 29622 would probably not apply.

This proposal was also discussed with Paul Valle-Riestra, Staff Attorney for the League of California Cities, and with Deputy Secretary of State Deborah Seiler, both of whom were unaware of any reason under State law why it would be prohibited.

City Attorney McNatt has been informed that there is presently no Federal grant money in the Dial-A-Ride program, so potential problems with certain Federal statutes are avoided. If this assumption were shown to be erroneous, there are numerous cases which prohibit the use of Federal grant funds in various programs from being utilized "... to provide voters or prospective voters with

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transportation to the polls or similar assistance in connection with any such election ..." (Southeastern Human Development Corp. v. Schweiker (1982) 531 F.Supp. 440).

In summary, while the City Attorney has found no law which directly addressed the situation contemplated, it appears that if the Council wishes, it may direct that Dial-A-Ride vehicles be utilized to provide voters transportation to and from the polls on election day.

Following discussion, the City Council on motion of Council Member Hinchman, Olson second, determined it would not provide free Dial-A-Ride transportation for voters.

REPORT REGARDING
PROPOSED ALTERNATE
WATER RATE SCHEDULE

CC-56

CC-183(e)

City Manager Peterson gave the following report regarding proposed alternate water rate schedule:

At the "Shirtsleeve" session of September 20, 1988 the City Council reviewed the recommended five-year Capital Improvement Program for the water system. The major portion of that program, if it is to be accomplished in the five-year period as presented, will involve long-term financing and the issuance of Certificates of Participation as we did in the recent White Slough expansion project. The total project cost is approximately \$6.4 million. The original schedule called for a public hearing on this matter at the regular City Council meeting of October 19, 1988. During the Council's review at the September 20 "Shirtsleeve" session, comments by some Councilmembers led staff to conclude that it would perhaps be of value to develop an alternate approach to adjustments to the water rate schedules, while still maintaining flat rates for all residential units. The approach staff is now developing involves a series of flat rates which increase with the size of the home, i.e. the number of bedrooms as we have done for years with the sanitary sewer rate schedules.

The development of this alternative will require a change in the financing schedule. As it now stands, the revision will result in the following series of events if the Council opts for long-term financing:

- November 8, 1988 - "Shirtsleeve" - Water Rates and Financing
- November 15, 1988 - "Shirtsleeve" - Water Rates and Financing (if necessary)
- November 16, 1988 - City Council sets January 4, 1989 for public hearing on water rate adjustments as required by State law
- January 4, 1989 - City Council holds public hearing on water adjustments; adopts resolution setting rates effective February 1, 1989 (recommended)
- January 25, 1989 - Pre-closing (San Francisco)
- January 26, 1989 - Closing; proceeds received by City (San Francisco)
- February 1, 1989 - New rates become effective

Continued October 5, 1988

The City Manager concluded his report by stating the City Council will be kept apprised as this schedule moves along.

ORDINANCES

ORDINANCE ACCEPTING THE PENAL CODE REQUIREMENTS RELATING TO THE SELECTION AND TRAINING STANDARDS OF PUBLIC SAFETY DISPATCHERS

ORD. NO. 1435
ADOPTED

CC-149
CC-152

Ordinance No. 1435 entitled, "An Ordinance of the Lodi City Council Accepting the Penal Code Requirements Relating to the Selection and Training Standards of Public Safety Dispatchers" having been introduced at an adjourned regular meeting of the Lodi City Council held September 28, 1988 was brought up for passage on motion of Council Member Reid, Olson second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by a unanimous vote of the City Council.

ORDINANCE AMENDING SPECIFIC PLAN OF LOWER SACRAMENTO ROAD BETWEEN KETTLEMAN LANE AND LODI AVENUE

ORD. NO. 1437
ADOPTED

CC-149
CC-152

Ordinance No. 1437 entitled, "An Ordinance Amending the Specific Plan of Lower Sacramento Road Between Kettleman Lane and Lodi Avenue, Lodi" having been introduced at an adjourned regular meeting of the Lodi City Council held September 28, 1988 was brought up for passage on motion of Council Member Hinchman, Olson second. Second reading of the ordinance was omitted after reading by title, and the ordinance was then adopted and ordered to print by a unanimous vote of the City Council.

ADJOURNMENT

There being no further business to come before the City Council, Mayor Pinkerton adjourned the meeting at approximately 8:17 p.m.

ATTEST:

Alice M. Reimche
Alice M. Reimche
City Clerk